



## 1995 SENATE BILL 288

August 2, 1995 - Introduced by Senators WEEDEN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on State Government Operations and Corrections.

1     **AN ACT** *to renumber and amend* 20.907 (1); *to amend* 16.50 (1) (a), 16.517,  
2           20.001 (4), 20.001 (5), 20.855 (6) (g), 20.865 (8) (title) and 20.907 (2); and *to*  
3           **create** 20.865 (8) (a), 20.865 (8) (q), 20.907 (1) (b) and 227.01 (13) (zo) of the  
4           statutes; **relating to:** adjustment of full-time equivalent positions and  
5           appropriation amounts resulting from actions of the joint committee on finance,  
6           acceptance and expenditure of the proceeds of certain gifts, grants and bequests  
7           made to state agencies, requirements for designation of amounts received by a  
8           state agency as a refund of expenditures, providing an exemption from  
9           rule-making procedures and making appropriations.

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### ***Analysis by the Legislative Reference Bureau***

This bill makes changes in laws relating to adjustment of full-time equivalent state positions and appropriation amounts, acceptance and expenditure of certain gifts, grants and bequests by the state and requirements for designation of amounts received by a state agency as a refund of expenditures.

#### ***Adjustment of positions and appropriation amounts***

Currently, if the governor or the board of regents of the University of Wisconsin (UW) System adjusts program revenue-funded positions or the secretary of administration adjusts authorized expenditures from a program revenue account during the fiscal year immediately preceding any new fiscal biennium, the department of administration (DOA) may, within 30 days after the effective date of the biennial budget act, provide a report to the joint committee on finance indicating any modifications to positions funded from program revenue or funding levels for

sum certain appropriations made from program revenue that are necessary to continue into the current fiscal biennium any positions authorized by the governor or board of regents or any funding adjusted by the secretary. If, within 14 working days after receiving the report, the joint committee on finance does not schedule a meeting to review the report, DOA may make the modifications indicated in the report.

This bill applies this procedure, in addition, to positions funded from general purpose revenue and segregated revenue, other than federal revenue. The bill also applies the procedure to actions of the joint committee on finance which increase the number of positions or supplement funding for a state agency during the fiscal year preceding the fiscal biennium of the budget act.

***Gifts, grants and bequests to state agencies***

Currently, when a gift, grant or bequest is made to a state agency, other than to an agency that is authorized by law to accept it and to expend the proceeds for the purpose of carrying out the programs of the agency, the gift, grant or bequest is not valid until it is approved by the joint committee on finance.

Under this bill, the gift, grant or bequest is valid upon submission of a report by the department of administration (DOA) to the joint committee on finance specifying the source, if known; the amount; and the state agency to which it was directed.

***Designation of amounts received by state agencies as refunds of expenditures***

Currently, moneys received by a state agency that are not appropriated are generally not available for expenditure until they are appropriated. However, if a state agency receives an adjustment of a previously recorded expenditure from a sum certain appropriation to that agency due to activities that are of a temporary nature or activities that could not be anticipated during budget development and which serves to reduce or eliminate the previously recorded expenditure in the same fiscal year in which the previously recorded expenditure was made, the secretary of administration may, upon request of the agency, designate the adjustment as a refund of an expenditure. When designated, the refund becomes available for expenditure. An agency which proposes to designate an adjustment as a refund of an expenditure must provide to the secretary an explanation of the conditions under which it was received, including a reference to the law creating the function of the agency under which the adjustment was received, the appropriation account from which the previously recorded expenditure was made and the purpose of the original expenditure and any new proposed expenditure. The secretary may waive submission of explanations for specified categories of refunds of expenditures.

Under this bill, the department of administration (DOA) prescribes written policies for identification of refunds of expenditures. The policies need not be promulgated as administrative rules. An adjustment received by a state agency may be recorded as a refund of expenditures upon submission to the secretary of administration of a written explanation of the circumstances under which the adjustment was received which qualify the adjustment to be so recorded. The secretary may waive the requirement for submission of explanations for specified

categories of refunds of expenditures. An agency need not provide any other information to the secretary. An agency need not have the secretary's specific approval to expend an amount received as a refund of expenditures, provided that the expenditure is made in accordance with the policies prescribed by DOA. An amount received as a result of an expenditure in one fiscal year may be credited and expended in a subsequent fiscal year. An amount may be credited to and expended from a continuing (nonlapsing) appropriation account such as a program revenue account as well as from a sum certain appropriation account, but not from a sum sufficient appropriation account. If the previously recorded expenditure was made from a sum sufficient appropriation account, the amount is recorded as a credit against expenditures from that account for purposes of the state budget report. The reason for receipt of an adjustment need not be related to activities of a temporary nature or activities that were not anticipated during budget development. Any expenditure of moneys received as a refund of expenditures is contingent upon continuance of the appropriation account to which the moneys are proposed to be credited and from which the moneys are proposed to be expended in a form that permits crediting and expenditure of the moneys.

***Other***

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 16.50 (1) (a) of the statutes is amended to read:  
2           16.50 (1) (a) Each department except the legislature and the courts shall  
3           prepare and submit to the secretary an estimate of the amount of money which it  
4           proposes to expend, encumber or distribute under any appropriation in ch. 20. The  
5           department of administration shall prepare and submit estimates for expenditures  
6           from appropriations under ss. 20.855, 20.865, 20.866 and 20.867. The secretary may  
7           waive the submission of estimates of other than administrative expenditures from  
8           such funds as he or she determines, but the secretary shall not waive submission of  
9           estimates for the appropriations under s. 20.285 (1) (im) and (n) ~~nor for expenditure~~  
10          ~~of any amount designated as a refund of an expenditure under s. 20.001 (5).~~  
11          Estimates shall be prepared in such form, at such times and for such time periods

1 as the secretary requires. Revised and supplemental estimates may be presented at  
2 any time under rules promulgated by the secretary.

3 **SECTION 2.** 16.517 of the statutes, as affected by 1995 Wisconsin Act 27, is  
4 amended to read:

5 **16.517 (title) Adjustments of ~~program revenue positions~~ position and**  
6 **funding levels.** No later than 30 days after the effective date of each biennial  
7 budget act, the department shall provide to the cochairpersons of the joint committee  
8 on finance a report indicating any initial proposed modifications that are necessary  
9 to the appropriation levels established under that act for ~~program revenue and~~  
10 ~~program revenue-service appropriations as defined in s. 20.001 (2) (b) and (c)~~ any  
11 sum certain appropriation or to the number of full-time equivalent positions funded  
12 from ~~program revenue and program revenue-service appropriations authorized by~~  
13 any revenue source except federal revenues under that act to account for any  
14 additional funding or positions authorized under s. 13.10, 16.505 (2) or (2m) or 16.515  
15 in the fiscal year immediately preceding the fiscal biennium of the budget that have  
16 not been included in appropriations or authorizations under the biennial budget act  
17 but which should be included as continued ~~budget~~ appropriations or authorizations  
18 in the fiscal biennium of the budget due to their continuing nature. Such  
19 modifications shall be limited to adjustment of the appropriation or position levels  
20 to the extent required to account for higher base levels for the fiscal year immediately  
21 preceding the fiscal biennium of the budget due to appropriation or position  
22 increases authorized under s. 13.10, 16.505 (2) or (2m) or 16.515 during the fiscal  
23 year immediately preceding the fiscal biennium of the budget. If the cochairpersons  
24 of the committee do not notify the secretary that the committee has scheduled a  
25 meeting for the purpose of reviewing the proposed modifications within 14 working

1 days after the date of receipt of the department's report, the department may make  
2 the modifications specified in the report. If, within 14 working days after the date  
3 of the department's report, the cochairpersons of the committee notify the secretary  
4 that the committee has scheduled a meeting for the purpose of reviewing the  
5 proposed modifications, the department may not make the modifications specified  
6 in the report until the committee approves the report.

7 **SECTION 3.** 20.001 (4) of the statutes is amended to read:

8 20.001 (4) GENERAL PURPOSE REVENUE — EARNED. Revenue which is received by  
9 a state agency incidentally in connection with general purpose revenue  
10 appropriations in the course of accomplishing program objectives, which is not  
11 designated as a refund of an expenditure by the secretary of administration under  
12 sub. (5) and for which no program revenue appropriation is made shall be designated  
13 as general purpose revenue (GPR) — earned. This revenue shall be treated as a  
14 nonappropriated receipt and is not available for expenditure.

15 **SECTION 4.** 20.001 (5) of the statutes is amended to read:

16 20.001 (5) REFUNDS OF EXPENDITURES. ~~Any~~ Except as otherwise provided in this  
17 subsection, any amount not otherwise appropriated under this chapter that is  
18 received by a state agency as a result of an adjustment made to a previously recorded  
19 ~~expenditure~~ expenditures from a sum certain an appropriation to that agency due  
20 ~~to activities that are of a temporary nature or activities that could not be anticipated~~  
21 ~~during budget development, other than a sum sufficient appropriation,~~ and which  
22 serves to reduce or eliminate the previously recorded ~~expenditure in the same fiscal~~  
23 ~~year in which the previously recorded expenditure was made may, upon request of~~  
24 ~~the agency, be designated~~ expenditures may be recorded by the secretary of  
25 ~~administration~~ agency as a refund of an expenditure. ~~Except as otherwise provided~~

1 ~~in this subsection, the secretary expenditures. The department of administration~~  
2 ~~may designate an amount shall prescribe written policies for identification of~~  
3 ~~amounts received by a state agency agencies as a refund refunds of an expenditure~~  
4 ~~only if the agency submits to the secretary a written explanation of the~~  
5 ~~circumstances under which the amount was received that includes a specific~~  
6 ~~reference in a statutory or nonstatutory law to a function of the agency under which~~  
7 ~~the amount was received and the appropriation from which the previously recorded~~  
8 ~~expenditure was made. A refund of an expenditure shall be deposited by the~~  
9 ~~receiving state agency in the appropriation account from which the previously~~  
10 ~~recorded expenditure was made expenditures. Except as otherwise provided in this~~  
11 ~~subsection, a state agency which proposes to make an expenditure from moneys~~  
12 ~~designated record an amount received as a refund of an expenditure expenditures~~  
13 ~~shall submit to the secretary of administration a written explanation of the purpose~~  
14 ~~of the expenditure, including a specific reference in a statutory or nonstatutory law~~  
15 ~~to a function of the agency under which the expenditure is to be made and the~~  
16 ~~appropriation from which the expenditure is to be made. After submission and~~  
17 ~~approval of an estimate of the amount proposed to be expended under s. 16.50 (2),~~  
18 ~~a state agency may expend the moneys received from the refund of the expenditure~~  
19 ~~circumstances under which the amount was received which qualify the amount to be~~  
20 ~~so recorded. The secretary of administration may waive submission of any an~~  
21 ~~explanation required by under this subsection for categories of refunds of~~  
22 ~~expenditures or proposed refunds of expenditures specified by the secretary. Any~~  
23 ~~amount recorded as a refund of expenditures shall be credited by the receiving state~~  
24 ~~agency to the appropriation account from which the previously recorded~~  
25 ~~expenditures were made unless the account is a sum sufficient appropriation~~

1 account. If the previously recorded expenditures were made from a sum sufficient  
2 appropriation account, the amount shall be recorded by the state agency, for  
3 purposes of s. 16.46, as a credit against the total disbursements from that account.  
4 Upon crediting of an amount to an appropriation account, the state agency may  
5 expend any amount credited during the period for which the appropriation is made  
6 if the expenditure is made in accordance with this subsection and policies prescribed  
7 by the secretary of administration under this subsection. Expenditure of any  
8 amount credited under this subsection is contingent upon continuance of the  
9 appropriation account to which the amount is proposed to be credited and from which  
10 the moneys are proposed to be expended in a form that permits crediting and  
11 expenditure of the moneys.

12 **SECTION 5.** 20.855 (6) (g) of the statutes is amended to read:

13 20.855 **(6)** (g) *Gifts and grants.* As a continuing appropriation, all moneys  
14 received from ~~moneys gifts, grants or bequests~~ deposited in the general fund under  
15 s. 20.907 (1) to carry out the purposes for which such ~~moneys were given~~ received.  
16 The department of administration may establish numeric subunits from the  
17 appropriation made under this paragraph for each state agency or division thereof  
18 which receives or is designated to act as trustee for a gift, grant, or bequest ~~or~~ devise  
19 ~~for which no specific appropriation is made under this chapter.~~ For internal  
20 accounting purposes only, the department may reflect the amounts in each subunit  
21 under the appropriation totals for the respective state agencies administering the  
22 programs for which the gifts, grants, or bequests ~~or~~ devises are used.

23 **SECTION 6.** 20.865 (8) (title) of the statutes is amended to read:

24 20.865 **(8)** (title) ~~SUPPLEMENTATION OF PROGRAM REVENUE AND PROGRAM~~  
25 ~~REVENUE SERVICE~~ INTERIM ADJUSTMENTS OF APPROPRIATIONS.

1           **SECTION 7.** 20.865 (8) (a) of the statutes is created to read:

2           20.865 (8) (a) *Supplementation of general purpose revenue appropriations.* A  
3 sum sufficient to supplement sum certain general purpose revenue appropriations  
4 as provided under s. 16.517.

5           **SECTION 8.** 20.865 (8) (q) of the statutes is created to read:

6           20.865 (8) (q) *Supplementation of segregated revenue appropriations.* A sum  
7 sufficient to supplement sum certain segregated revenue appropriations as provided  
8 under s. 16.517.

9           **SECTION 9.** 20.907 (1) of the statutes is renumbered 20.907 (1) (a) and amended  
10 to read:

11           20.907 (1) (a) Unless otherwise provided by law, ~~all gifts, grants, bequests and~~  
12 ~~devises to the state or whenever any gift, grant or bequest is made to any state agency~~  
13 ~~for the benefit or advantage of the state, whether made to trustees or otherwise, shall~~  
14 ~~be other than one that is authorized by law to receive it and to expend the proceeds~~  
15 ~~for the purpose of carrying out its programs, the gift, grant or bequest is legal and~~  
16 ~~valid when approved by upon submission of a report by the department of~~  
17 ~~administration to the cochairpersons of the joint committee on finance and. The~~  
18 ~~report shall specify the source of the gift, grant or bequest, if known; the amount; and~~  
19 ~~the state agency to which it was directed. If the gift, grant or bequest is in the form~~  
20 ~~of cash, the department of administration shall deposit the proceeds in the general~~  
21 ~~fund and credit the proceeds to the appropriation account under s. 20.855 (6) (g).~~

22           (c) Each legal and valid gift, grant or bequest shall be executed and enforced  
23 according to the provisions of the instrument making the same, including all  
24 provisions and directions in any such instrument for accumulation of the income of  
25 any fund or rents and profits of any real estate without being subject to the

1 limitations and restrictions provided by law in other cases; but no such accumulation  
2 shall be allowed to produce a fund more than 20 times as great as that originally  
3 given. When such ~~gifts, grants, bequests or devises include a gift, grant or bequest~~  
4 includes common stocks or other investments which are not authorized by s. 881.01,  
5 such common stocks or other investments may be held and may be exchanged,  
6 invested or reinvested in similar types of investments without being subject to the  
7 limitations provided by law in other cases.

8 **SECTION 10.** 20.907 (1) (b) of the statutes is created to read:

9 20.907 (1) (b) Unless otherwise provided by law, whenever any gift, grant or  
10 bequest is made to the state but is not received by a state agency for the purposes of  
11 carrying out its programs, the gift, grant or bequest is legal and valid when accepted  
12 by the joint committee on finance.

13 **SECTION 11.** 20.907 (2) of the statutes is amended to read:

14 20.907 (2) CUSTODY AND ACCOUNTING. The state treasurer shall have custody  
15 of all ~~such gifts, grants, bequests and devises~~ any gift, grant or bequest governed by  
16 sub. (1) in the form of cash or securities. The department of administration shall keep  
17 a separate account for each state agency receiving such gifts, grants, or bequests and  
18 devises, including therein investments, accumulations, payments and any other  
19 transaction pertaining to such moneys. If no state agency is designated by the donor  
20 to carry out the purposes of the conveyance, the joint committee on finance shall  
21 appoint a state agency to act as trustee.

22 **SECTION 12.** 227.01 (13) (zo) of the statutes is created to read:

23 227.01 (13) (zo) Prescribes policies for identifying or justifying state accounting  
24 transactions as refunds of expenditures under s. 20.001 (5).

25 (END)